

#12 1/12/99 T. Gray

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE



Attorney Docket No. 053466/0201

In re patent application of

KISHIMOTO, *et al.*

Serial No. 08/817,507

Filed: April 17, 1997

Group Art Unit: 1642

Examiner: J. REEVES

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MAIHA CUSTOMER
SERVICE CENTER

For: PHARMACEUTICAL COMPOSITION FOR TREATMENT OF
DISEASES CAUSED IL-6 PRODUCTION

RESPONSE TO RESTRICTION REQUIREMENT

Commissioner for Patents
Washington, D.C. 20231

Sir:

In response to the Office Action dated December 7, 1998, applicants hereby elect, with traverse, the claims of Group I, claims 16-18 and claims 15 and 24-28, for prosecution in the subject application. Applicants believe that no fee is due, however in the event that a fee is deficient or absent, please consider this paragraph such a request and authorization to withdraw the appropriate fee under 37 C.F.R. §§ 1.16 to 1.18 from Account No. 19-0741.

REMARKS

The examiner has restricted the present invention into five separate methods of treating different diseases, all of which are caused at least in part from IL-6 production. The examiner states that claims 15 and 24-28 will be examined to the extent that they read on the elected method of treatment. Applicants traverse the restriction requirement because it is improper to restrict within a single generic claim (claim 15). The restriction requirement should be re-classified as an election of species. Each of the groups of claims 16-18, 19, 20, 21-22 and 23 of the five alleged separate inventions depend upon the same basic mechanism; i.e., the use of an antibody that binds to an IL-6 receptor. These dependent claims simply specify a targeted disease condition that results at least in part from IL-6 production. It is applicants' position that claim 15 is a properly generic claim. Under these circumstances, applicants' election of Group I with traverse should be treated

as an election of species, with full examination of the generic claim once the elected species is found allowable. Reconsideration of the restriction requirement is therefore respectfully requested.

Applicants reserve the right to pursue the subject matter of the non-elected claims in one or more divisional applications with the same rights of priority as the instant application.

Applicants respectfully await examination of the application on its merits. If there are any questions regarding this submission, the Examiner is invited to contact the undersigned at the telephone number set forth below.

Respectfully submitted,

Jan. 6, 1999
Date

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